

REMARKS

The Office Action of November 18, 2005 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-3, 5-17, 19-31, 33-34 are pending. Claims 4, 18, and 32 have been canceled.

The indication that claims 3, 5, 17, 19, 31, and 33 are allowable is appreciated. Accordingly, the independent claims have been amended to recite that the specimen is selected from urine or wound fluid in accordance with the allowable claims.

Claims 1-34 stand rejected under 35 USC 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

Claim 1, for example, requires a specimen from a patient, the specimen is selected from urine or wound fluid. It is respectfully submitted that the language of the claims is sufficient to identify that the specimen came from a patient. Procedures for obtaining specimens from patients are well known and the step of actually obtaining the sample is not necessary for the claim.

Moreover, the claim is directed to a test to determine whether the patient is a favorable candidate for the treatment of hyperbaric oxygen. Depending on the results, the patient will or will not be treated with hyperbaric oxygen. Thus, claim 1 does not require actual treatment with hyperbaric oxygen. Dependent claim 6, for example, recites treating the patient with hyperbaric oxygen.

Moreover, one skilled in the art would know how to obtain a threshold value for a patient based on the specification. See paragraph 28. The claim requires a threshold value for comparison purposes, but does not require how the threshold value is obtained.

Claim 34 is a kit claim for use with the methods of the present invention. The reagents are suitable reagents to determine level nitric oxide production, to determine the level of a nitric-oxide-related product, or to determine the level of an oxidant stress related product in the specimen and to determine the level of a nitric-oxide-related product in a urine or wound fluid specimen. Suitable, but not limiting, reagents are described in the specification such as in paragraphs 24 and 39. Withdrawal of this rejection is requested.

Claims 1-2, 4, 6-16, 18, 20-30, 32, and 34 stand rejected as anticipated by or unpatentable over McMahon et al. (Nature Medicine, Vol. 8, No. 7; pp 711-717 (2002)).


The independent claims have been amended to recite that the specimen is a urine or wound fluid specimen. As recognized by the Office Action, this article does not teach or suggest utilizing a urine or wound fluid specimen. Withdrawal of the instant rejection is requested.

CONCLUSION

Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

The Commissioner is hereby authorized to charge any additional fees to Deposit Account No. 19-0733.

Respectfully submitted,



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